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5 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**
6 **FOR THE COUNTY OF BENTON**
7

8 **STATE OF OREGON,**
9 Plaintiff,
10 v.
11 **WALEED ALI ALHARTHI,**
12 Defendant.

8 **CASE No. 14CR16191**

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10 **DEFENDANT'S RESPONSE TO**
11 **MOTION TO RECONSIDER**
12 **ORDER DECLARING**
13 **FORFEITURE OF SECURITY**
14 **UNDER ORS 135.280(3)**

15 COMES NOW, Defendant Waleed Ali Alharthi, by and through his attorney of record,
16 Ginger G. Mooney, and submits this Response to the State's Motion to Reconsider Order Declaring
17 Forfeiture of Security. The State has requested this Court reconsider its earlier order declaring
18 forfeiture of the security deposit in accordance with Benton County policy.

19 First, Defendant urges this Court to forgo reconsideration of its earlier order. The Notice
20 Regarding Posting of Bail Money For Release signed in the present case provides, in relevant part:

21 The Court *may* order the full amount of the posted bail money to
22 be forfeited to the State if the Defendant violates the conditions of
23 his/her Release Agreement or fails to appear at any scheduled
24 Court appearance. I further understand that if the Court orders the
25 bail amount forfeited I *may* be liable for the full amount of the bail
26 (10 times the amount deposited).

27 (*Defendant's Exhibit 1, Notice Regarding Posting of Bail Money For Release, dated August 11,*
28 *2014, attached hereto and incorporated by reference herein* (emphasis added).) The notice

1 signed in this case constitutes an agreement and clearly indicates that decisions of the Court
2 regarding forfeiture of security are discretionary. These terms are binding, permitting this
3 Honorable Court to maintain its current policy to order forfeiture of the security deposit only.
4 Furthermore, the policy of Benton County is common and permissible. *See, e.g., State v.*
5 *Normile*, 52 Or App 33, 41-42 (1981) (interpreting ORS 135.280(3), upholding forfeiture of
6 security deposit for violation of release conditions).

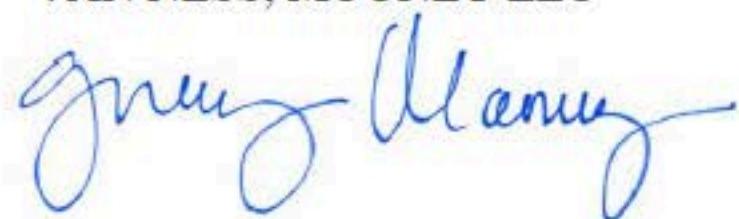
7 Second, if this Court chooses to reconsider its earlier ruling, Defendant contends the State
8 has misinterpreted the language of ORS 135.280(3). A plain reading of the language cited, that the
9 court “shall enter an order declaring the entire security amount to be forfeited” only indicates that
10 the court shall enter an order which specifies the total amount a defendant must forfeit, not that the
11 order must declare the entire amount of security from the release order be forfeited. “Entire
12 security amount” refers to the entire amount specified in the forfeiture order, not the entire amount
13 initially stated in the release order.

14 This plain reading does not conflict with subsection (6) of ORS 135.280, which simply
15 provides that “the clerk shall reduce, by the value of the deposit so forfeited, the debt remaining
16 on the judgment.” This subsection only requires a deduction of the deposit amount from the
17 “entire security amount to be forfeited” as specified in the forfeiture order. This language does
18 not imply legislative intent that the entire amount specified in the release order must be forfeited.

19 For the reasons stated herein, and those stated previously during oral argument on this
20 motion, Defendant urges this Court to uphold its earlier ruling, limiting forfeiture in this case to
21 the amount of Defendant’s security deposit.

22 DATED: This 8th day of May, 2015.

23
24 Respectfully submitted,
25 VAN NESS, MOONEY LLC
26



**Page 2 of 3- DEFENDANT'S RESPONSE TO MOTION TO RECONSIDER ORDER DECLARING
FORFEITURE OF SECURITY UNDER ORS 135.280(3)**

NOTICE REGARDING POSTING OF BAIL MONEY FOR RELEASE

Defendant's Name: Waleed Ali AlRashdi

Case Number: 14CR16191 Charge(s) Encourage Child Sex Abuse

Amount of Bail Imposed: \$ 500,000 Amount of Bail Deposited: \$ 50,000

BEFORE YOU PAY MONEY TO OBTAIN THE RELEASE OF A DEFENDANT FROM CUSTODY, PLEASE READ THE FOLLOWING:

[1] The Court will order that the bail money posted (less the 15% administrative costs) be applied toward payment of any financial obligations owed by the defendant to this Court, ~~or any Circuit Court in the State of Oregon.~~ This is NOT limited to the case for which the money is posted and includes any and all outstanding monies owed to the Court by the Defendant and may also include obligations for unpaid child support as provided by ORS 25.715 and 135.265.

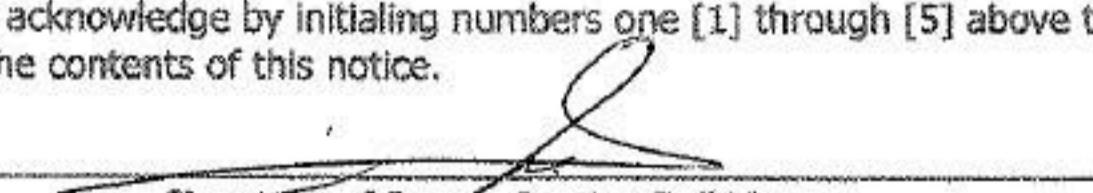
[2] The Court may order the full amount of the posted bail money to be forfeited to the State if the Defendant violates the conditions of his/her Release Agreement or fails to appear at any scheduled Court appearance. I further understand that if the Court orders the bail amount forfeited I may be liable for the full amount of the bail (10 times the amount deposited). A lien may be placed against property owned by me to satisfy such judgment.

[3] No money may be refunded until ALL matters in this case have been completed by the Court. If the Defendant is found guilty, no money can be disbursed until after the Defendant is sentenced.

[4] The Court requires four (4) weeks after completion of the Defendant's case before any monies can be refunded or released, if applicable.

[5] The unused portion of the bail deposited with the Court (less any costs listed in number one [1] above) must be refunded by mail or credit card reversal to the person who posted the money, as shown by the receipt.

I acknowledge by initialing numbers one [1] through [5] above that I have read and fully understand the contents of this notice.



Signature of Person Posting Bail Money

Faisal Alsudairy

Print Name of Person Posting Bail Money

8-11-2014

Date

(310) 479-6000 Ext 2155

Telephone Number

Mailing Address (If your mailing address changes, you must notify the Court)

Court date: _____ Time: _____ AM/PM

Where: Benton County Circuit Court, 120 NW 4th Street, Corvallis, Oregon

Other Court: _____

Money received by: _____ Corrections Deputy/Court clerk

OJIN/GUI Code: NO (of Posting Security)

Created 11/19/08

White: Person posting bail

Yellow: Circuit Court

Pink: Defendant

Goldenrod: Jail

Petitioner's Exhibit 1

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